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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/580,179 | 05/26/2000 | Dominique Commereuc | PET-1845 | 8780 |

23599 7590 07/18/2002

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EXAMINER

PASTERCZYK, JAMES W

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1755

DATE MAILED: 07/18/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/580,179

Applicant(s)
Commereuc et al.

Examiner
J. Pasterczyk

Art Unit
1755



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 17, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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1. This Office action is in response to the election filed 6/17/02.
2. Applicant's election with traverse of claims 1-11 and 17-20 in Paper No. 5 is acknowledged. The traversal is on the ground(s) that there would be no further burden to search the other claims. This is not found persuasive because the other claims are classified in another class and subclass which are both the province of a separate art unit within the Office.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 1-11 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). This phrase is found in l. 5 referring to the R groups on the aluminum compound. ✓

Further in claim 1, it is not clear if the pre-conditioning is performed to the individual components or to the mixture of them. In the last line, "prior to use" suggests a use limitation; it is also not clear what the "use" may be. ✓

In claim 3, l. 3, change "compounds with" to --compound of the--.

In claim 4, l. 2, change "with" to --of-- and "is used" makes the sentence ungrammatical as well as suggesting a use limitation. ✓

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In claim 8, l. 2, "enriched" sounds like a word used to refer to radioactive materials. Since the language of the composition components is already open, it is suggested that the aluminum trihalide simply be included as a new component. ✓

In claim 17, "halogenocarboxylic acid" strictly lacks antecedent basis since it is recited earlier using another term. ✓

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamawaki et al., USP 3,755,284 (hereafter referred to as Yamawaki) in view of Chauvin et al., USP 5,059,571 (hereafter referred to as Chauvin).

Yamawaki discloses the invention substantially as claimed (col. 2, l. 39 to col. 4, l. 17; col. 5, l. 6-42; examples 18 and 22-23).

Yamawaki lacks disclosure of "aging" the mixture prior to "use".

However, Chauvin teaches that a similar composition should be reacted over a range of temperatures before use (col. 2, l. 27-43), and kinetic rate laws of reactions suggest that the higher the temperature of reaction, the faster it will go and thus the shorter the time necessary to carry it to completion.

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It would have been obvious to one of ordinary skill in the art to apply the teaching of Chauvin to the disclosure of Yamawaki with a reasonable expectation of obtaining a highly-useful catalyst with the expected benefit of the catalyst being more reactive and producing fewer side products due to a purer catalyst made upon more complete reaction.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is (703) 308-3497. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for normal faxes, 872-9311 for after final faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



J. Pasterczyk

7/12/02



Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700